

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

MEDICAL LIABILITY MUTUAL INSURANCE CO.

PLAINTIFF

VS.

CASE NO. 4:05CV001319 JMM

**ALLAN CURTIS, LLC, D/B/A/
CRESTPARK OF MARIANNA, INC, ET AL.**

DEFENDANTS

ORDER

Pending before the Court is Intervenor's Motion to Intervene (#46) filed pursuant to Federal Rules of Civil Procedure 24(a)(2) and 24(b)(2), and defendants' response. For the reasons stated below, the motion is denied.

Rule 24(a)(2) requires that the proposed intervenor establish that it claims an interest in the property or transaction which is the subject of the litigation, that disposition of the litigation in the party's absence may impede or impair its ability to protect its interest, and that the interest is not adequately represented by the current parties to the suit. Fed.R.Civ.P. 24(a)(2); *Jenkins v. Missouri*, 78 F.3d 1270, 1274 (8th Cir. 1996).

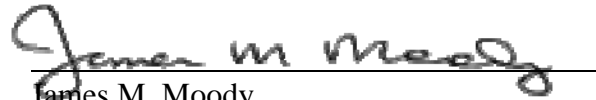
Under Federal Rule of Civil Procedure 24(b)(2), permissive intervention is permitted "when a statute of the United States confers a conditional right to intervene; or when an applicant's claim or defense and the main action have a question of law or fact in common. . . . In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original parties." Fed. R. Civ. P. 24(b)(2).

Intervenor is the plaintiff in the underlying lawsuit which is at issue between plaintiff and defendants in the above styled case.

Defendants contend that Intervenor does not have a recognizable interest in the subject matter of the instant case. Intervenor contends that because defendant Evergreen refuses to discuss settlement with her until resolution of the instant lawsuit, she has an interest in the case.

The Court has reviewed the motion and the response, and based upon the standards set forth above, finds that Intervenor lacks standing to intervene and it would unduly delay and prejudice the adjudication of the rights of the current parties.

IT IS SO ORDERED THIS 21 day of November, 2006.

A handwritten signature in dark ink, appearing to read "James M. Moody", is written over a horizontal line.

James M. Moody
United States District Judge